

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

STEVEN R. KINCAID,

Plaintiff,

**V.**

Civil Action No. 04-11522-WGY

**BANK OF AMERICA  
CORPORATION,**

**Defendant.**

**PLAINTIFF'S MOTION TO COMPEL  
DISCOVERY, AND FOR SANCTIONS**

Pursuant to Fed.R.Civ.P. 37(a) and (c), and this Court's inherent powers, plaintiff hereby moves for an order:

compelling defendant to provide plaintiff with the discovery described in the accompanying Memorandum;

2. compelling defendant to provide to the Court for its in camera inspection the documents described in the accompanying Memorandum

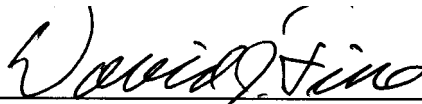
3. imposing on defendant the sanctions requested in the accompanying Memorandum; and

4. requiring defendant to pay plaintiff the reasonable expenses incurred in making this Motion, including attorney's fees

The grounds for this Motion are set out in the accompanying Memorandum

Dated: August 11, 2005

Respectfully submitted,

A handwritten signature in black ink, reading "David J. Fine", written over a horizontal line.

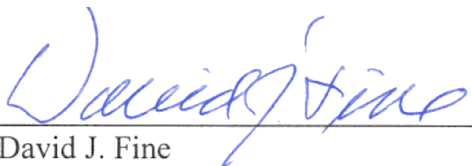
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Attorney for Plaintiff

Certificate of Service

I hereby certify that I have this day served the foregoing by causing true copies thereof to be transmitted electronically and mailed, first class postage prepaid to, Richard F. Kane and Steven T. Ackermann, Esqs., McGuire Woods LLP, Bank of America Corporate Center, 100 North Tryon Street, Suite 2900, Charlotte, NC 28202, and to George P. Kostakos, Edwards & Angell, LLP, 2800 Financial Plaza, Providence, RI 02903, attorneys for defendant.

Dated: August 11, 2005

A handwritten signature in blue ink, reading "David J. Fine", written over a horizontal line.

David J. Fine